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South Africa to Finalize Establishing a Border Management Authority

Report Categories:

National Plan

Trade Policy Monitoring

Agriculture in the Economy

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Report Highlights:

On June 8, 2017, the South African National Assembly passed the Border Management Authority Bill. The purpose of the Bill is to establish a single state entity known as the Border Management Authority, which will oversee all aspects pertaining to the management of the 72 ports of entry in South Africa. While South Africa expects the Bill to be finalized in 2018, the Bill's implementation would take at least 3 years.

Background

On June 8, 2017, the South African National Assembly passed the Border Management Authority Bill (https://www.gov.za/sites/default/files/39056_gon673.pdf). The purpose of the Bill is to establish a single state entity known as the Border Management Authority (BMA), which will oversee all aspects pertaining to the management of the 72 ports of entry (air, land and sea borders) in South Africa. The Bill will only become effective and be implemented once it is approved by the eleven National Councils of Provinces and select Committee hearings. Although the Bill is expected to be finalized in 2018, it has been contested extensively, which could further delay its implementation.

According to the Bill, the intention of establishing an integrated and coordinated BMA is to facilitate secure travel and legitimate trade. Integrated and coordinated border management is an international trend that is widely recognized by the customs community including the World Customs Organization (<http://www.wcoomd.org/en/topics/facilitation/activities-and-programmes/coordinated-border-management.aspx>) and has been adopted by several countries including the United States. The BMA is envisaged to be similar or equivalent to the United States Customs and Border Protection ([CBP](#)).

Implications

Once the Bill is implemented, all government departments and agencies currently involved in aspects of border control and management will fall under the BMA. This would include the management and control of agricultural imports and exports, which currently fall under the ambit of the Department of Agriculture, Forestry and Fisheries (DAFF), Department of Trade and Industry (DTI), and the Department of Health (Food Control Division). According to Post contacts, all food and agricultural inspectors stationed at the ports will be transferred to the BMA. Notably, importers have in the past faced challenges with port inspections, namely inconsistent application and interpretations of regulations at different ports of entry, as well as allegations of targeting of shipments from certain countries or importers. Post will closely monitor how this change will affect the inspection and clearance of agricultural products at the ports. However, if implemented proficiently, the South African border management system could provide a clear point of contact for resolving port inspection issues.

According to the proposed Bill, at least ten acts from the agriculture sector may be transferred to fall under the authority of the BMA. The following acts are relevant to the agriculture sector; the Agricultural Pests Act 36 of 1983, Agricultural Product Standards Act 119 of 1990, Animal Diseases Act 35 of 1984, the Animal Health Act 7 of 2002, Animal Improvement Act 62 of 1998, Fertilizers, Farm Feeds, Agricultural Remedies and Stock Remedies Act 36 of 1947, Foodstuffs, Cosmetics and Disinfectants Act 54 of 1972, Plant Improvement Act 53 of 1976, and the Perishable Products Export Control Act 9 of 1983. Based on media reports, concern has been raised that transferring these Acts to the BMA, while the responsibility of formulating these policies remains with the respective Ministries may create a disconnect between the policy makers and the enforcement that occurs at the ports of entry.

Other areas of concern include the uncertainty on whether the control of import duties and taxes would be transferred to the BMA or would continue under the South African Revenue Services. Secondly, there seems to be strong opposition on the BMA being placed under the Department of Home Affairs, based on capacity constraints and political issues. Thirdly, the high cost and source of funding for establishing the BMA remains unresolved.

While South Africa expects the Bill to be finalized in 2018, the Bill's implementation would take at least 3 years. Post will continue to monitor and report on this Bill, especially if it could impact agricultural trade between the United States and South Africa.